

Northumbria Research Link

Citation: Griffiths, Elisabeth (2016) Only Relatively Equal? The unintended consequences of the Equality Act 2010. In: SLSA Annual Conference, 5th -7th April 2016, Lancaster.

URL:

This version was downloaded from Northumbria Research Link:
<http://nrl.northumbria.ac.uk/id/eprint/27297/>

Northumbria University has developed Northumbria Research Link (NRL) to enable users to access the University's research output. Copyright © and moral rights for items on NRL are retained by the individual author(s) and/or other copyright owners. Single copies of full items can be reproduced, displayed or performed, and given to third parties in any format or medium for personal research or study, educational, or not-for-profit purposes without prior permission or charge, provided the authors, title and full bibliographic details are given, as well as a hyperlink and/or URL to the original metadata page. The content must not be changed in any way. Full items must not be sold commercially in any format or medium without formal permission of the copyright holder. The full policy is available online: <http://nrl.northumbria.ac.uk/policies.html>

This document may differ from the final, published version of the research and has been made available online in accordance with publisher policies. To read and/or cite from the published version of the research, please visit the publisher's website (a subscription may be required.)



**Northumbria
University**
NEWCASTLE



UniversityLibrary

Only Relatively Equal? – The unintended consequence of the Equality Act 2010

Abstract: The Law and Unintended Consequences, Socio-Legal Studies Association Annual Conference 2016

Elisabeth Griffiths, Northumbria University
elisabeth.griffiths@northumbria.ac.uk

The aim of the Equality Act 2010 ('the Act') is principally equal treatment. The Act brings all 'protected characteristics'¹ together into one piece of legislation, all separate 'silos'² but in theory equal before the law, no one more important than the other. However in recent years as the number of protected characteristics has increased, tensions have emerged within the case law. Some protected characteristics may have an impact on one's ability to do a particular job at particular times, such as disability, and are subject to special rules. Others, such as sexual orientation, sex, race and religion, should have no impact and ought therefore to be ignored by an employer.³ As demonstrated by religious discrimination cases⁴ and disability discrimination cases⁵, the Act can lead to tensions and a possible 'emerging hierarchy'.⁶ This paper seeks to explore the equal treatment principle and the protection offered by the Act and suggests that a developing hierarchy is inevitable given the way the law is framed. These tensions and in(equalities) are surely an unintended consequence of the Act?

¹ Equality Act 2010, s 4: the following characteristics are protected characteristics – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

² Iyiola Solanke, 'Infusing the Silos in the Equality Act 2010 with Synergy' [2011] ILJ 40, 336-358

³ Unless that employer is seeking to rely on a particular work requirement having regard to the nature of the work, see Equality Act 2010, Sch 9.

⁴ For example *Ladele v London Borough of Islington* [2009] EWCA Civ 1357, *Ewedra v British Airways Plc* [2010] EWCA Civ 80, *McFarlane v Relate Avon Ltd.* [2010] EWCA Civ 880.

⁵ *Archibald v Fife Council* [2004] UKHL 32

⁶ Lucy Vickers, 'Religious Discrimination in the Workplace: An Emerging Hierarchy?' [2010] Ecclesiastical Law Journal 12, 280-303.